

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

ANDREW L. COLBORN,
Plaintiff

NETFLIX, INC.,
CHROME MEDIA, LLC, f/k/a
SYNTHESIS FILMS, LLC,
LAURA RICCIARDI, and
MOIRA DEMOS,

Case No. 19-CV-484

Defendants.

SUPPLEMENTAL DECLARATION OF APRIL ROCKSTEAD BARKER

I, April Rockstead Barker, declare under penalty of perjury as follows:

1. I am one of the attorneys for the Plaintiff in the above-captioned action
2. Attached as Exhibit 1 is a true and correct copy of an email message that I sent to counsel for the Defendants, including Leita Walker, counsel for Netflix, Inc., on July 28, 2021. To my knowledge, I never received a response specific to my request for production of non-confidential documents.
3. Attached as Exhibit 2 is a true and correct copy of an email message that I sent to Leita Walker on June 24, 2021. In early July through mid-July of this year, I was also in communications with Defendants' counsel regarding a supplemental joint discovery report that Defendants proposed.
4. Attached as Exhibit 3 are true and correct copies of portions of a document that was contained in the first document production by Netflix, Inc., on or about September 17, 2021.

5. Attached as group Exhibit 4 is a true and correct copy of an email exchange that I had with Leita Walker in response to her October 7, 2021, correspondence.
6. During the September 16, 2021 meet-and-confer with Defendants' counsel, I did not indicate or manifest acceptance of the terms or timing of production that Netflix unilaterally informed me it would be following. Rather, I stated at the outset of the call that I thought that we were unfortunately unlikely to make any progress unless Defendants indicated that they would be providing documents within a week or so. After Ms. Walker described Netflix's timetable for production, I indicated to counsel on the call that I would have to talk to Attorney Burnett, lead counsel for the Plaintiff, to determine whether he would accept their proposal in resolution of the discovery dispute. Attorney Walker demonstrated understanding of this, stating something to the effect of, "You talk to George." Attorney Burnett did not find Netflix's proposed timetable agreeable. Further discussions would have been futile after that point.
7. Attorney Walker's statement that she "offered to provide an extension" to Plaintiff to respond to the discovery responses served by Netflix, Inc. on Plaintiff is not true to the extent that she may be contending that she offered an unconditional extension to me that was there for the asking. During the September 16, 2021 call, I asked Ms. Walker if she would extend the deadline for the responses given that Netflix had yet to produce the documents that Plaintiff requested in June. Ms. Walker responded that she would consider (emphasizing that word) providing an extension if we provided specific reasons for an extension. Otherwise, she firmly indicated that Netflix would expect timely written responses to its discovery. To my recollection and understanding, she disagreed with my suggestion that the timing of Netflix's

production alone would be a justifiable reason for an extension of our deadline to respond to Netflix's discovery.

Dated this 29th day of October, 2021.

/s/April Rockstead Barker

April Rockstead Barker